

**STATE MINING AND GEOLOGY BOARD****DEPARTMENT OF CONSERVATION**

801 K Street • Suite 2015 • Sacramento, California 95814

PHONE: 916 / 322-1082 • FAX: 916 / 445-0738 • TDD: 916 / 324-2555 • INTERNET: [conservation.ca.gov/smgb](http://conservation.ca.gov/smgb)**Allen M. Jones, Chair**  
**Cheryl Bly-Chester, Vice Chair****Julian C. Isham**  
**Robert Tepel****Erin Garner**  
**Kathy Lund**

January 13, 2009

**AMENDED NOTICE OF PENDING DETERMINATION****State Mining and Geology Board's  
Notice of Vested Rights Determination  
Western Aggregates LLC Surface Mining Operation  
Yuba County, California**

**NOTICE IS HEREBY GIVEN** that the State Mining and Geology Board (SMGB) proposes to hold a public hearing in order to consider whether the Western Aggregates LLC surface mining operation, located in Yuba County, has vested rights in accordance with the Surface Mining and Reclamation Act of 1975 (SMARA), pursuant to Public Resources Code Division 2, Chapter 9, Article 5, Section 2776.

**PENDING ADMINISTRATIVE ACTION**

In a December 2007 ruling, the California Court of Appeal, Third Appellate District, held that a proper notice and hearing was required for any vested rights determination, and directed that when the SMGB is acting as the SMARA lead agency, the SMGB has the responsibility to conduct the public hearing and make the vested rights determination (*Calvert v. County of Yuba*, (2007) 145 Cal. App. 4th 613). On August 14, 2008, the Office of Administrative Law approved the proposed regulations which present the administrative procedures for conducting such a determination. The regulations were enacted on September 13, 2008.

The SMGB administers certain lead agency responsibilities and obligations pursuant to SMARA (Public Resources Code Section 2710 et seq.) for Yuba County, and will be conducting a vested rights determination (CCR Section 3950 et seq.) for the surface mining operation known as Western Aggregates, LLC (California Mine Identification No. 91-58-0001), located in Yuba County.

## **SPECIFIC PROPERTY**

The Western Aggregates LLC Claimant's contact information and surface mining operation business address are:

### **CONTACT PERSON/AGENT:**

Kerry Shapiro, Esq.  
Jeffer, Mangels, Butler & Marmaro LLP  
Two Embarcadero Center, 5th Floor  
San Francisco, CA 94111  
Phone: (415) 984-9612  
Fax (877) 746-5619  
e-mail: kshapiro@jmbm.com

### **BUSINESS ADDRESS:**

Mr. Lloyd Burns  
Western Aggregates LLC  
P. O. Box 821  
Marysville, California 95901  
Phone: (530) 754-6525

The specific property for which a vested rights determination has been requested from the SMGB is depicted in Map 13-3 (attached; map can be found in Volume III of the Western Aggregates Request For Determination, submitted to the SMGB in October 2008). The subject area incorporates approximately 4,125 acres currently owned by Western Aggregates, LLC, and is situated in a roughly 10,000-acre area known as the Yuba Goldfields, as shown on Map 13-3, and as described with more particularity in the "Legal Description" section of Volume I of the Western Aggregates Request for Determination. The subject area consists of portions of the following sections:

Sections 1, 2, 11 & 12 in Township 15 North, Range 4 East, M.D.M.,  
Sections 4, 5 & 6 in Township 15 North, Range 5 East, M.D.M.,  
Sections 25, 26, 27, 32, 33 & 34 in Township 16 North, Range 5 East, M.D.M.,  
Section 30 in Township 16 North, Range 6 East, M.D.M."

## **PUBLIC HEARINGS AND WRITTEN COMMENTS**

The SMGB has not scheduled a public hearing on this proposed action; however, the SMGB will hold a pre-hearing conference on February 5, 2009, to schedule such hearing for the determination of vested rights. The hearing facility will be barrier free in accordance with the Americans with Disabilities Act. At the hearing, any person may

present statements or arguments orally or in writing relevant to the proposed action described in the Informative Digest. The SMGB requests, but does not require, that persons who make oral comments at the hearing also submit a written copy of their testimony.

#### **ADMINISTRATIVE RECORD AVAILABILITY**

Copies of the Administrative Record are available for review at the:

State Mining and Geology Board Office  
801 K Street, 20<sup>th</sup> Floor, Suite 2015  
Sacramento, CA 95814  
Phone: (916) 322-1082

OR

Yuba County Planning Department  
915 8<sup>th</sup> Street, Suite 123  
Marysville, CA 95901  
Phone: (530) 749-5470

#### **CONTACT PERSON**

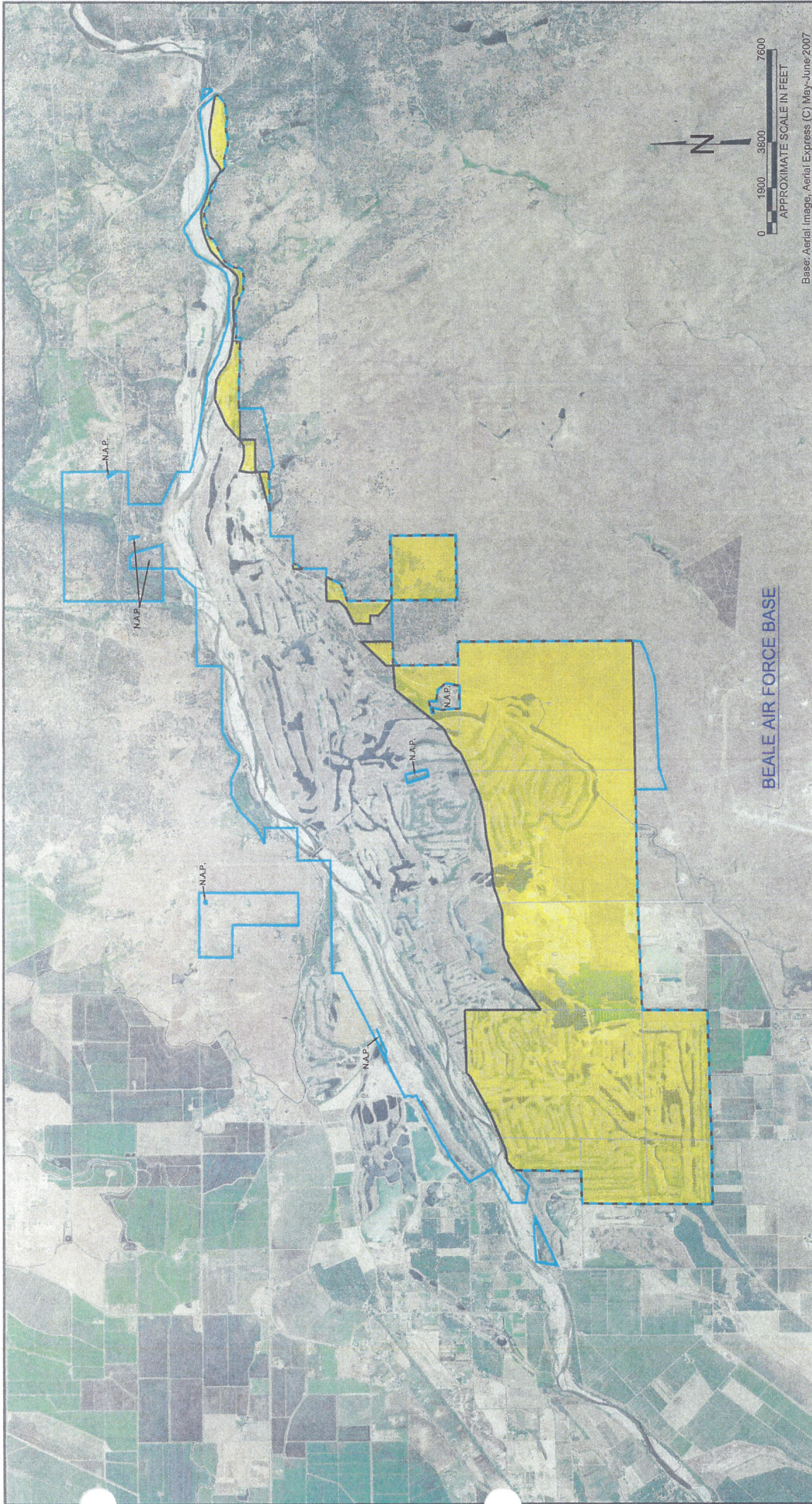
Inquiries concerning the substance of this Notice of Pending Determination should be directed to:

Mr. Stephen M. Testa, Executive Officer  
State Mining and Geology Board  
801 K Street, Suite 2015  
Sacramento, California 95814  
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[www.conservation.ca.gov/smgb](http://www.conservation.ca.gov/smgb)





**LEGEND:**

- Western's Vested Rights Area, 2008.
- Western's Ownership Interests, 2008.
- Western's Ownership Interests, 2008 and Western's Vested Rights Area, 2008.
- Not A Part of Western's Ownership Interests, 2008.

**SOURCE:**  
Data Supplied by: MacKay & Sonnet, 2008

**NOTE:**  
Aerial photography not orthorectified resulting in minor misalignments.

**WESTERN AGGREGATES, LLC**  
Western's 2008 Vested Rights Area.  
(2008 Ownership Interest)  
Tuba County, California

**WEST COAST ENVIRONMENTAL AND ENGINEERS**

**PROJECT:** JEF111-004-07      **MAP:** 13-3

**DRAWN BY:** IDT      **DATE:** 06/19/08      **REVISION:** 10/06/08 JLT

**APPROVED BY:** RDF      **DATE:** 10/06/08      **PRINTED:** 10/22/08